



Rep. Dan Brady

Filed: 5/30/2007

09500HB3170ham005

LRB095 06980 RAS 37036 a

1 AMENDMENT TO HOUSE BILL 3170

2 AMENDMENT NO. _____. Amend House Bill 3170, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Abused and Neglected Child Reporting Act is
6 amended by changing Sections 4, 7.4, and 9 as follows:

7 (325 ILCS 5/4) (from Ch. 23, par. 2054)

8 Sec. 4. Persons required to report; privileged
9 communications; transmitting false report. Any physician,
10 resident, intern, hospital, hospital administrator and
11 personnel engaged in examination, care and treatment of
12 persons, surgeon, dentist, dentist hygienist, osteopath,
13 chiropractor, podiatrist, physician assistant, substance abuse
14 treatment personnel, funeral home director or employee,
15 coroner, medical examiner, emergency medical technician,
16 acupuncturist, crisis line or hotline personnel, school

1 personnel (including administrators and both certified and
2 non-certified school employees), educational advocate assigned
3 to a child pursuant to the School Code, truant officers, social
4 worker, social services administrator, domestic violence
5 program personnel, registered nurse, licensed practical nurse,
6 genetic counselor, respiratory care practitioner, advanced
7 practice nurse, home health aide, director or staff assistant
8 of a nursery school or a child day care center, recreational
9 program or facility personnel, law enforcement officer,
10 licensed professional counselor, licensed clinical
11 professional counselor, registered psychologist and assistants
12 working under the direct supervision of a psychologist,
13 psychiatrist, or field personnel of the Department of
14 Healthcare and Family Services, Public Health, Human Services
15 (acting as successor to the Department of Mental Health and
16 Developmental Disabilities, Rehabilitation Services, or Public
17 Aid), Corrections, Human Rights, or Children and Family
18 Services, supervisor and administrator of general assistance
19 under the Illinois Public Aid Code, probation officer, or any
20 other foster parent, homemaker or child care worker having
21 reasonable cause to believe a child known to them in their
22 professional or official capacity may be an abused child or a
23 neglected child shall immediately report or cause a report to
24 be made to the Department.

25 Any member of the clergy having reasonable cause to believe
26 that a child known to that member of the clergy in his or her

1 professional capacity may be an abused child as defined in item
2 (c) of the definition of "abused child" in Section 3 of this
3 Act shall immediately report or cause a report to be made to
4 the Department.

5 If an allegation is raised to a school board member during
6 the course of an open or closed school board meeting that a
7 child who is enrolled in the school district of which he or she
8 is a board member is an abused child as defined in Section 3 of
9 this Act, the member shall direct or cause the school board to
10 direct the superintendent of the school district or other
11 equivalent school administrator to comply with the
12 requirements of this Act concerning the reporting of child
13 abuse. For purposes of this paragraph, a school board member is
14 granted the authority in his or her individual capacity to
15 direct the superintendent of the school district or other
16 equivalent school administrator to comply with the
17 requirements of this Act concerning the reporting of child
18 abuse.

19 Notwithstanding any other provision of this Act, if an
20 employee of a school district has made a report or caused a
21 report to be made to the Department under this Act involving
22 the conduct of a current or former employee of the school
23 district and a request is made by another school district for
24 the provision of information concerning the job performance or
25 qualifications of the current or former employee because he or
26 she is an applicant for employment with the requesting school

1 district, the general superintendent of the school district to
2 which the request is being made must disclose to the requesting
3 school district the fact that an employee of the school
4 district has made a report involving the conduct of the
5 applicant or caused a report to be made to the Department, as
6 required under this Act. Only the fact that an employee of the
7 school district has made a report involving the conduct of the
8 applicant or caused a report to be made to the Department may
9 be disclosed by the general superintendent of the school
10 district to which the request for information concerning the
11 applicant is made, and this fact may be disclosed only in cases
12 where the employee and the general superintendent have not been
13 informed by the Department that the allegations were unfounded.
14 An employee of a school district who is or has been the subject
15 of a report made pursuant to this Act during his or her
16 employment with the school district must be informed by that
17 school district that if he or she applies for employment with
18 another school district, the general superintendent of the
19 former school district, upon the request of the school district
20 to which the employee applies, shall notify that requesting
21 school district that the employee is or was the subject of such
22 a report.

23 Whenever such person is required to report under this Act
24 in his capacity as a member of the staff of a medical or other
25 public or private institution, school, facility or agency, or
26 as a member of the clergy, he shall make report immediately to

1 the Department in accordance with the provisions of this Act
2 and may also notify the person in charge of such institution,
3 school, facility or agency, or church, synagogue, temple,
4 mosque, or other religious institution, or his designated agent
5 that such report has been made. Under no circumstances shall
6 any person in charge of such institution, school, facility or
7 agency, or church, synagogue, temple, mosque, or other
8 religious institution, or his designated agent to whom such
9 notification has been made, exercise any control, restraint,
10 modification or other change in the report or the forwarding of
11 such report to the Department.

12 The privileged quality of communication between any
13 professional person required to report and his patient or
14 client shall not apply to situations involving abused or
15 neglected children and shall not constitute grounds for failure
16 to report as required by this Act.

17 A member of the clergy may claim the privilege under
18 Section 8-803 of the Code of Civil Procedure.

19 In addition to the above persons required to report
20 suspected cases of abused or neglected children, any other
21 person may make a report if such person has reasonable cause to
22 believe a child may be an abused child or a neglected child.

23 Any person who enters into employment on and after July 1,
24 1986 and is mandated by virtue of that employment to report
25 under this Act, shall sign a statement on a form prescribed by
26 the Department, to the effect that the employee has knowledge

1 and understanding of the reporting requirements of this Act.
2 The statement shall be signed prior to commencement of the
3 employment. The signed statement shall be retained by the
4 employer. The cost of printing, distribution, and filing of the
5 statement shall be borne by the employer.

6 The Department shall provide copies of this Act, upon
7 request, to all employers employing persons who shall be
8 required under the provisions of this Section to report under
9 this Act.

10 Any person who knowingly transmits a false report to the
11 Department commits the offense of disorderly conduct under
12 subsection (a)(7) of Section 26-1 of the "Criminal Code of
13 1961". Any person who violates this provision a second or
14 subsequent time shall be guilty of a Class 3 felony.

15 Any person who knowingly and willfully violates any
16 provision of this Section other than a second or subsequent
17 violation of transmitting a false report as described in the
18 preceding paragraph, is guilty of a Class A misdemeanor for a
19 first violation and a Class 4 felony for a second or subsequent
20 violation; except that if the person acted as part of a plan or
21 scheme having as its object the prevention of discovery of an
22 abused or neglected child by lawful authorities for the purpose
23 of protecting or insulating any person or entity from arrest or
24 prosecution, the person is guilty of a Class 4 felony for a
25 first offense and a Class 3 felony for a second or subsequent
26 offense (regardless of whether the second or subsequent offense

1 involves any of the same facts or persons as the first or other
2 prior offense).

3 A child whose parent, guardian or custodian in good faith
4 selects and depends upon spiritual means through prayer alone
5 for the treatment or cure of disease or remedial care may be
6 considered neglected or abused, but not for the sole reason
7 that his parent, guardian or custodian accepts and practices
8 such beliefs.

9 A child shall not be considered neglected or abused solely
10 because the child is not attending school in accordance with
11 the requirements of Article 26 of the School Code, as amended.
12 (Source: P.A. 93-137, eff. 7-10-03; 93-356, eff. 7-24-03;
13 93-431, eff. 8-5-03; 93-1041, eff. 9-29-04; 94-888, eff.
14 6-20-06.)

15 (325 ILCS 5/7.4) (from Ch. 23, par. 2057.4)

16 Sec. 7.4. (a) The Department shall be capable of receiving
17 reports of suspected child abuse or neglect 24 hours a day, 7
18 days a week. Whenever the Department receives a report alleging
19 that a child is a truant as defined in Section 26-2a of The
20 School Code, as now or hereafter amended, the Department shall
21 notify the superintendent of the school district in which the
22 child resides and the appropriate superintendent of the
23 educational service region. The notification to the
24 appropriate officials by the Department shall not be considered
25 an allegation of abuse or neglect under this Act.

1 (b) (1) The following procedures shall be followed in the
2 investigation of all reports of suspected abuse or neglect
3 of a child, except as provided in subsection (c) of this
4 Section.

5 (2) If it appears that the immediate safety or
6 well-being of a child is endangered, that the family may
7 flee or the child disappear, or that the facts otherwise so
8 warrant, the Child Protective Service Unit shall commence
9 an investigation immediately, regardless of the time of day
10 or night. In all other cases, investigation shall be
11 commenced within 24 hours of receipt of the report. Upon
12 receipt of a report, the Child Protective Service Unit
13 shall make an initial investigation and an initial
14 determination whether the report is a good faith indication
15 of alleged child abuse or neglect.

16 (3) If the Unit determines the report is a good faith
17 indication of alleged child abuse or neglect, then a formal
18 investigation shall commence and, pursuant to Section 7.12
19 of this Act, may or may not result in an indicated report.
20 The formal investigation shall include: direct contact
21 with the subject or subjects of the report as soon as
22 possible after the report is received; an evaluation of the
23 environment of the child named in the report and any other
24 children in the same environment; a determination of the
25 risk to such children if they continue to remain in the
26 existing environments, as well as a determination of the

1 nature, extent and cause of any condition enumerated in
2 such report; the name, age and condition of other children
3 in the environment; and an evaluation as to whether there
4 would be an immediate and urgent necessity to remove the
5 child from the environment if appropriate family
6 preservation services were provided. After seeing to the
7 safety of the child or children, the Department shall
8 forthwith notify the subjects of the report in writing, of
9 the existence of the report and their rights existing under
10 this Act in regard to amendment or expungement. To fulfill
11 the requirements of this Section, the Child Protective
12 Service Unit shall have the capability of providing or
13 arranging for comprehensive emergency services to children
14 and families at all times of the day or night.

15 (4) If (i) at the conclusion of the Unit's initial
16 investigation of a report, the Unit determines the report
17 to be a good faith indication of alleged child abuse or
18 neglect that warrants a formal investigation by the Unit,
19 the Department, any law enforcement agency or any other
20 responsible agency and (ii) the person who is alleged to
21 have caused the abuse or neglect is employed or otherwise
22 engaged in an activity resulting in frequent contact with
23 children and the alleged abuse or neglect are in the course
24 of such employment or activity, then the Department shall,
25 except in investigations where the Director determines
26 that such notification would be detrimental to the

1 Department's investigation, inform the appropriate
2 supervisor or administrator of that employment or activity
3 that the Unit has commenced a formal investigation pursuant
4 to this Act, which may or may not result in an indicated
5 report. The Department shall also notify the person being
6 investigated, unless the Director determines that such
7 notification would be detrimental to the Department's
8 investigation.

9 (c) In an investigation of a report of suspected abuse or
10 neglect of a child by a school employee at a school or on
11 school grounds, the Department shall make reasonable efforts to
12 follow the following procedures:

13 (1) Investigations involving teachers shall not, to
14 the extent possible, be conducted when the teacher is
15 scheduled to conduct classes. Investigations involving
16 other school employees shall be conducted so as to minimize
17 disruption of the school day. The school employee accused
18 of child abuse or neglect may have his superior, his
19 association or union representative and his attorney
20 present at any interview or meeting at which the teacher or
21 administrator is present. The accused school employee
22 shall be informed by a representative of the Department, at
23 any interview or meeting, of the accused school employee's
24 due process rights and of the steps in the investigation
25 process. The information shall include, but need not
26 necessarily be limited to the right, subject to the

1 approval of the Department, of the school employee to
2 confront the accuser, if the accuser is 14 years of age or
3 older, or the right to review the specific allegations
4 which gave rise to the investigation, and the right to
5 review all materials and evidence that have been submitted
6 to the Department in support of the allegation. These due
7 process rights shall also include the right of the school
8 employee to present countervailing evidence regarding the
9 accusations.

10 (2) If a report of neglect or abuse of a child by a
11 teacher or administrator does not involve allegations of
12 sexual abuse or extreme physical abuse, the Child
13 Protective Service Unit shall make reasonable efforts to
14 conduct the initial investigation in coordination with the
15 employee's supervisor.

16 If the Unit determines that the report is a good faith
17 indication of potential child abuse or neglect, it shall
18 then commence a formal investigation under paragraph (3) of
19 subsection (b) of this Section.

20 (3) If a report of neglect or abuse of a child by a
21 teacher or administrator involves an allegation of sexual
22 abuse or extreme physical abuse, the Child Protective Unit
23 shall commence an investigation under paragraph (2) of
24 subsection (b) of this Section.

25 (c-5) In any instance in which a report is made or caused
26 to made by a school district employee involving the conduct of

1 a person employed by the school district, at the time the
2 report was made, as required under Section 4 of this Act, the
3 Child Protective Service Unit shall send a copy of its final
4 finding report to the general superintendent of that school
5 district.

6 (d) If the Department has contact with an employer, or with
7 a religious institution or religious official having
8 supervisory or hierarchical authority over a member of the
9 clergy accused of the abuse of a child, in the course of its
10 investigation, the Department shall notify the employer or the
11 religious institution or religious official, in writing, when a
12 report is unfounded so that any record of the investigation can
13 be expunged from the employee's or member of the clergy's
14 personnel or other records. The Department shall also notify
15 the employee or the member of the clergy, in writing, that
16 notification has been sent to the employer or to the
17 appropriate religious institution or religious official
18 informing the employer or religious institution or religious
19 official that the Department's investigation has resulted in an
20 unfounded report.

21 (e) Upon request by the Department, the Department of State
22 Police and law enforcement agencies are authorized to provide
23 criminal history record information as defined in the Illinois
24 Uniform Conviction Information Act and information maintained
25 in the adjudicatory and dispositional record system as defined
26 in Section 2605-355 of the Department of State Police Law (20

1 ILCS 2605/2605-355) to properly designated employees of the
2 Department of Children and Family Services if the Department
3 determines the information is necessary to perform its duties
4 under the Abused and Neglected Child Reporting Act, the Child
5 Care Act of 1969, and the Children and Family Services Act. The
6 request shall be in the form and manner required by the
7 Department of State Police. Any information obtained by the
8 Department of Children and Family Services under this Section
9 is confidential and may not be transmitted outside the
10 Department of Children and Family Services other than to a
11 court of competent jurisdiction or unless otherwise authorized
12 by law. Any employee of the Department of Children and Family
13 Services who transmits confidential information in violation
14 of this Section or causes the information to be transmitted in
15 violation of this Section is guilty of a Class A misdemeanor
16 unless the transmittal of the information is authorized by this
17 Section or otherwise authorized by law.

18 (Source: P.A. 91-239, eff. 1-1-00; 92-801, eff. 8-16-02.)

19 (325 ILCS 5/9) (from Ch. 23, par. 2059)

20 Sec. 9. Any person, institution or agency, under this Act,
21 participating in good faith in the making of a report or
22 referral, or in the investigation of such a report or referral
23 or in the taking of photographs and x-rays or in the retaining
24 a child in temporary protective custody or in making a
25 disclosure of information concerning reports of child abuse and

1 neglect in compliance with Sections 4.2 and 11.1 of this Act or
2 Section 4 of this Act, as it relates to disclosure by school
3 personnel and except in cases of wilful or wanton misconduct,
4 shall have immunity from any liability, civil, criminal or that
5 otherwise might result by reason of such actions. For the
6 purpose of any proceedings, civil or criminal, the good faith
7 of any persons required to report or refer, or permitted to
8 report, cases of suspected child abuse or neglect or permitted
9 to refer individuals under this Act or required to disclose
10 information concerning reports of child abuse and neglect in
11 compliance with Sections 4.2 and 11.1 of this Act, shall be
12 presumed.

13 (Source: P.A. 90-15, eff. 6-13-97.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."